

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5380 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

I N PATEL

Versus

DIRECTOR

Appearance:

MR YN OZA for Petitioners
MR SP HASURKAR for Respondent No. 1
NOTICE SERVED for Respondent No. 3
MR PREMAL JOSHI AGP for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/09/2000

ORAL JUDGEMENT

The petitioners nos. 1 & 2 before this Court are
the Inspecting Officer and Head Clerk in the Office of
the Director of Food. It is the claim of the petitioners

that they have been working on their respective posts since the year 1979 and 1980, while the petitioners nos. 3 & 4 are serving as Senior Clerks for the last 14 years and 17 years respectively. The petitioners have claimed that the establishment of the Director of Food and Controller of Food & Civil Supplies are two different and separate establishments and promotions in the said establishments are governed by the specific recruitment rules. The posts under two Directorates are not transferrable, however, in utter disregard to the relevant recruitment rules, some employees from the office of the Controller of Food & Civil Supplies have been promoted and posted on the promotional post under the Director of Food. On account of deputation of personnel from the office of the Controller of Food & Civil Supplies, the promotional chances of the petitioners have been adversely affected. The petitioners have, therefore, prayed that all appointments made in contravention of the relevant rules be quashed and set-aside and the persons promoted or transferred on deputation, in contravention of the relevant recruitment rules, be reverted or repatriated. It is also prayed that the cases of the petitioners for further promotion be considered in accordance with the prevalent recruitment rules.

It appears that the petition is vague inasmuch as the petitioners have not made out who are the persons who are promoted/transferred on deputation in contravention of the relevant recruitment rules or when such orders were made. The persons who have allegedly been appointed/promoted in contravention of the relevant recruitment rules also have not been impleaded as party respondents. The relief claimed against such persons, therefore, cannot be granted. However, as there is no contest by the respondents, it is presumed that the petitioners are eligible for consideration for further promotion. It is, therefore, directed that the respondents shall consider the cases of the petitioners for further promotion in the respective establishment in accordance with the prevalent rules; as and when such promotions are being considered and in accordance with their seniority vis-a-vis other similarly situated employees. It is further directed that no appointment/promotion/transfer shall be made except in accordance with the prevalent rules. Petition is partly allowed in the above terms. Rule is made absolute to the above extent. The parties shall bear their own costs.

Prakash*